

REMARKS

Summary of In-Person Interview on July 6, 2010:

The undersigned would like to thank Examiner Merene for the courteous interview held on July 6, 2010. The undersigned from Greenberg Traurig, LLP and Ken Gall (named inventor) participated on behalf of the Applicant. Mr. Gall provided a demonstration of model devices to Examiner Merene. Potential claim amendments to independent Claim 46 were presented and agreement was reached that the proposed claim amendments would overcome the previous rejections. Examiner Merene indicated that further searching would be required.

The Office Action and Response:

This correspondence is responsive to the Office Action of February 22, 2010. Before amendment herein, Claims 46-58 and 139-141 were pending. By amendment herein, Applicant has cancelled Claims 47-50, 53-54, and 57-58. Furthermore, Applicant has amended Claims 46 and 139-141. Thus, Claims 46, 51-52, 55-56, and 139-141 are now pending in the application. A detailed chart illustrating support for the amended claims is provided below.

Claim Rejections - Claim 46

The Examiner rejected Claim 46 as being anticipated by both U.S. Patent Application Publication No. 2002/0165547 ("Dovesi") and U.S. Patent No. 5,505,735 ("Li").

Neither Dovesi nor Li teaches the limitations of amended Claim 46, for example, the operation of "causing the shape memory polymer to change its shape through the shape memory effect from the temporary pre-implantation shape toward an unconstrained shape of the shape memory polymer, thereby fixing the cable member to the bone with the retention device."

For at least this reason, Claim 46 is believed to be patentable over both Dovesi and Li, as well as any combination thereof.

Claim Rejections - Dependent Claims

The Examiner rejected the dependent Claims 51-52, 55-56, and 139-141, either as anticipated by Dovesi and/or Li, or as unpatentable over Dovesi in view of various combinations of one or more of U.S. Patent Application Publication No. 2001/0041937 ("Rieser"), U.S. Patent Application Publication No. 2002/0188298 ("Chan"), U.S. Patent

Application Publication No. 2006/0136057 (“Brulez”), U.S. Patent No. 5,976,187 (“Richelsoph”), U.S. Patent 5,728,098 (“Sherman”), and U.S. Patent 5,879,382 (“Boneau”).

Claims 51-52, 55-56, and 139-141 are believed to be patentable at least because each depends on Claim 46. In addition, the cited references do not teach the deficiencies described above with reference to Dovesi and Li.

Specification Support for Amendments:

The amendments to Claims 46 and 139-141 find at least the following exemplary support in the specification, with references to specification paragraphs and figures as shown in the published application:

Claim/Limitation	Exemplary Support:
1-45. (Cancelled)	
46. (Currently Amended) A method comprising:	
inserting a cable member into a recess in a bone;	Fig. 1
inserting a retention device <u>containing a shape memory polymer</u> into the recess <u>while the shape memory polymer is in a temporary pre-implantation shape due to a shape memory effect of the shape memory polymer</u> ; the retention device containing a shape memory material ; and	Para. 0059, 0065, 0076
<u>positioning the retention device in the recess while the shape memory polymer is in the temporary pre-implantation shape such that the retention device contacts the cable member and the bone</u> ; and	Fig. 1, Para. 0049, 0050, 0058, 0059
<u>causing activating the shape memory material polymer to change its shape through the shape memory effect from the temporary pre-implantation shape toward an unconstrained shape of the shape memory polymer, thereby fixing the cable member to the bone with the retention device.</u>	Para. 0058, 0059, 0065

47-50. (Cancelled)	
51-52. (Original)	
53-54. (Cancelled)	
55-56. (Original)	
57-138. (Cancelled)	
139. (Currently Amended) The method of <u>claim 46</u> claim 54 , wherein the activating is causing the shape <u>memory polymer to change shape through the shape memory effect is performed by heating</u> , and wherein the heating comprises a transfer of heat from the bone to the shape memory <u>polymer</u> material .	Para. 0065, 0077
140. (Currently Amended) The method of <u>claim 46</u> claim 54 , wherein the activating is causing the shape <u>memory polymer to change shape through the shape memory effect is performed by heating</u> , and wherein the heating comprises flooding the retention device with a liquid bath.	Para. 0065, 0176
141. (Currently Amended) The method of <u>claim 46</u> claim 54 , wherein the activating is causing the shape <u>memory polymer to change shape through the shape memory effect is performed by heating</u> , and wherein the heating comprises a transfer of heat from the bone to the shape memory <u>polymer</u> material , and flooding the retention device with a liquid bath.	Para. 0065, 0077, 0176

In light of the above amendments and remarks, Applicant respectfully submits that all pending claims are in condition for allowance, and such action is respectfully requested. This Response is believed to be responsive to each issue raised in the Office Action. If the Examiner believes that it would be helpful to discuss any of the amendments or remarks

presented herein, the Examiner is invited to contact the undersigned at the telephone number provided.

It is not believed that any additional fees are due in connection with this response. However, any necessary fees may be charged to Deposit Account No. 502775.

Respectfully submitted,

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